

charged (e.g., charged by criminal information in lieu of indictment) for or convicted of violating any of the U.S. criminal statutes enumerated in § 120.27 of this subchapter or violating a foreign criminal law on exportation of defense articles where conviction of such law carries a minimum term of imprisonment of greater than 1 year; or becomes ineligible to contract with, or to receive a license or other approval to export or import defense articles or defense services from, any agency of the U.S. government; or

(2) There is a change in the following information contained in the Statement of Registration (form DS-2032):

- (i) Registrant's name;
- (ii) Registrant's address;
- (iii) Registrant's legal organization structure;
- (iv) Ownership or control;
- (v) The establishment, acquisition or divestment of a U.S. or foreign subsidiary or other affiliate who is engaged in brokering activities or otherwise required to be listed in registrant's Statement of Registration; or
- (vi) Board of directors, senior officers, partners and owners.

NOTE 1 TO PARAGRAPH (d): All other changes in the Statement of Registration must be provided as part of annual registration renewal.

NOTE 2 TO PARAGRAPH (d): For one year from October 25, 2013, "Amendment to the International Traffic in Arms Regulations: Registration and Licensing of Brokers, Brokering Activities, and Related Provisions," RIN 1400-AC37, the following changes must be provided as part of the annual registration renewal: pursuant to § 129.3(d), changes to combine an existing broker registration with an existing manufacturer/exporter registration, and pursuant to § 129.8(a), changes to an existing registration to remove partially owned and not otherwise controlled subsidiaries or affiliates, which are not the subject of an internal reorganization, merger, acquisition, or divestiture.

(e) A U.S. or foreign registrant must provide written notification to the Directorate of Defense Trade Controls at least sixty (60) days in advance of any intended sale or transfer to a foreign person of ownership or control of the registrant or any parent, subsidiary, or other affiliate listed and covered in its Statement of Registration. Such notice does not relieve the registrant from ob-

taining any prior approval required under this subchapter.

(f) The new entity formed when a registrant merges with another company or acquires, or is acquired by, another company or a subsidiary or division of another company, shall advise the Directorate of Defense Trade Controls of the following:

- (1) The new firm name and all previous firm names;
- (2) The registration number that will continue and those that are to be discontinued (if any); and
- (3) The numbers of all approvals for brokering activities under the continuing registration number, since any approval not the subject of notification will be considered invalid.

(g) A registrant whose registration lapses because of failure to renew and, after an intervening period, seeks to register again must pay registration fees for any part of such intervening period during which the registrant engaged in the business of brokering activities.

[78 FR 52692, Aug. 26, 2013]

§ 129.9 Guidance.

(a) Any person desiring guidance on whether an activity constitutes a brokering activity within the scope of this part 129 may request in writing guidance from the Directorate of Defense Trade Controls. The request for guidance shall identify the applicant and registrant code (if applicable) and describe fully the activities that will be undertaken, including:

- (1) The specific activities to be undertaken by the applicant and any other U.S. or foreign person;
- (2) The name, nationality, and geographic location of all U.S. and foreign persons who may participate in the activities;
- (3) A description of each defense article or defense service that may be involved, including:
 - (i) The U.S. Munitions List category and sub-category for each article;
 - (ii) The name or military nomenclature of each defense article;
 - (iii) Whether the defense article is significant military equipment;
 - (iv) Estimated quantity of each defense article;

(v) Estimated U.S. dollar value of defense articles and defense services; and

(vi) Security classification;

(4) End-user and end-use; and

(5) A copy of any agreement or documentation, if available, between or among the requester and other persons who will be involved in the activity or related transactions that describes the activity to be taken by such persons.

(b) If at the time of submission certain information is not yet available, this circumstance must be stated and explained. The Directorate of Defense Trade Controls will take the completeness of the information into account in providing guidance on whether the activities constitute brokering activities. The guidance will constitute an official determination by the Department of State. The guidance shall not substitute for approval when required under § 129.4.

(c) Persons desiring guidance on other aspects of this part may also request guidance from the Directorate of Defense Trade Controls in a similar manner by submitting a description of the relevant facts or copies of relevant documentation.

[78 FR 52693, Aug. 26, 2013]

§ 129.10 Reports.

(a) Any person required to register under this part (including those registered in accordance with § 129.3(d)) shall provide to the Directorate of Defense Trade Controls on an annual basis a report of its brokering activities in the previous twelve months. Such report shall be submitted along with the registrant's annual renewal submission or, if not renewing, within 30 days after expiration of registration.

(b) The report shall include brokering activities that received or were exempt from approval as follows:

(1) The report shall identify the broker's name, address, and registration code and be signed by an empowered official who shall certify that the report is complete and accurate. The report shall describe each of the brokering activities, including the number assigned by the Directorate of Defense Trade Controls to the approval or the exemption claimed; and

(2) For each of the brokering activities, the report shall identify all per-

sons who participated in the activities, including each person's name, address, nationality, and country where located and role or function; the quantity, description, and U.S. dollar value of the defense articles or defense services; the type and U.S. dollar value of any consideration received or expected to be received, directly or indirectly, by any person who participated in the brokering activities, and the source thereof.

(c) If there were no brokering activities, the report shall certify that there were no such activities.

[78 FR 52694, Aug. 26, 2013]

§ 129.11 Maintenance of brokering records by registrants.

A person who is required to register pursuant to this part (including those registered in accordance with § 129.3(d)) must maintain records concerning brokering activities in accordance with § 122.5 of this subchapter.

[78 FR 52694, Aug. 26, 2013]

PART 130—POLITICAL CONTRIBUTIONS, FEES AND COMMISSIONS

Sec.

- 130.1 Purpose.
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- 130.3 Armed forces.
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- 130.5 Fee or commission.
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- 130.7 Supplier.
- 130.8 Vendor.
- 130.9 Obligation to furnish information to the Directorate of Defense Trade Controls.
- 130.10 Information to be furnished by applicant or supplier to the Directorate of Defense Trade Controls.
- 130.11 Supplementary reports.
- 130.12 Information to be furnished by vendor to applicant or supplier.
- 130.13 Information to be furnished to applicant, supplier or vendor by a recipient of a fee or commission.
- 130.14 Recordkeeping.
- 130.15 Confidential business information.
- 130.16 Other reporting requirements.
- 130.17 Utilization of and access to reports and records.

AUTHORITY: Sec. 39, Pub. L. 94-329, 90 Stat. 767 (22 U.S.C. 2779); 22 U.S.C. 2651a; E.O. 13637, 78 FR 16129.